

Update: Domestic Violence Benchbook (2d ed)

CHAPTER 5

Evidence in Criminal Domestic Violence Cases

5.10 Privileged Communications with Medical or Mental Health Service Providers

F. Clergy

Delete the last paragraph in this Section and insert the following:

This privilege is not abrogated under the Child Protection Law. See MCL 722.631, as amended by 2002 PA 693 effective March 1, 2003 and quoted at Section 5.10(G).

G. Abrogation of Privileges in Cases Involving Suspected Child Abuse or Neglect

Replace the first two paragraphs in this section with the following text:

The Child Protection Law, at MCL 722.623(1), amended by 2002 PA 693, effective March 1, 2003, imposes a duty to report suspected child abuse or neglect to the Family Independence Agency, as follows:

“A physician, dentist, physician’s assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the [FIA]. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act.”

In conjunction with the foregoing reporting requirements, MCL 722.631 as amended by 2002 PA 693, effective March 1, 2003, provides as follows:

“Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to [the Child Protection Law]. This section does not relieve a member of the clergy from reporting suspected child abuse or neglect under [MCL 722.623] if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under [MCL 722.623].”